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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE THOMAS S. HIXSON, MAGISTRATE JUDGE

EPIC GAMES, INC.,)	
)	
Plaintiff/)	
Counter-defendant,)	
)	
VS.)	No. 20-cv-05640-YGR (TSH)
)	
APPLE INC.,)	
)	
Defendant/)	
Counterclaimant.)	
_____)	
		San Francisco, California
		Friday, April 9, 2021

TRANSCRIPT OF PROCEEDINGS VIA ZOOM WEBINAR

APPEARANCES: (via Zoom)

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Official Reporter - U.S. District Court

Friday - April 9, 2021

8:00 A.M.

P R O C E E D I N G S

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THE CLERK: Good morning, everyone. We are here in Civil action 20-5640, Epic Games, Inc. versus Apple Inc. The Honorable Thomas S. Hixson presiding.

Counsel, please state your appearances. Let's start with the plaintiff.

MS. MOSKOWITZ: Good morning, Your Honor. Lauren Moskowitz, from Cravath, Swaine & Moore, on behalf of Epic Games.

THE COURT: Good morning.

MR. SRINIVASAN: Good morning, Your Honor. Jay Srinivasan, of Gibson Dunn, for Apple.

THE COURT: Good morning. So a couple of issues for this hearing. With respect to Cragg -- and is that how his name is pronounced, Ms. Moskowitz?

MS. MOSKOWITZ: Yes, Your Honor.

THE COURT: All right. My tentative thought is that if he misspoke at his deposition, and it seems like Epic's position is that he did, then I think he needs to correct that. His deposition testimony certainly conveys the impression that he performed a regression analysis on consumer expenditures.

And the ordinary way to handle misstatements during a deposition, obviously, is through a statement of changes under

1 Rule 30, where it's essentially an errata. But because this
2 implicates whether he performed an analysis that would need to
3 be provided to Apple, I think that we need more than just some
4 after-the-fact edit by Epic's attorneys.

5 I think Cragg himself needs to clarify on the record what
6 analysis he did or did not do. So my tentative thought is that
7 Apple should get to redepose him about this regression analysis
8 and about his prior testimony and about the change to paragraph
9 37 to his rebuttal report.

10 But this should be a pretty short deposition. I'm
11 thinking I would cap it at 30 minutes. And depending on what
12 he says, it might not need more than five minutes.

13 But let me ask, Epic, for your thoughts in response to
14 that tentative.

15 **MS. MOSKOWITZ:** Your Honor, I certainly understand
16 that they don't need to take Epic's word for it. I think that
17 Mr. Cragg was prepared to put in a signed errata -- well, he
18 already did put in a signed errata in removing the expenditures
19 language which was, I think, causing the confusion even with
20 him, frankly, at the deposition.

21 But the notion that he needs to sit for a deposition just
22 to say what he's saying in writing and prepared to say in
23 writing, including any extra words to make it clear that there
24 was no analysis, under whatever name you want to call it that
25 was being asked about at that deposition, he's prepared to sign

1 that errata.

2 So it seems unnecessary but, of course, we'll follow Your
3 Honor's instruction in that regard.

4 **THE COURT:** And let me ask, Apple, your thoughts.

5 **MR. SRINIVASAN:** Your Honor, first of all, thank you
6 for squeezing us in. Second of all, we agree with your
7 proposal.

8 The problem with just the errata itself, as we briefed in
9 the letter, in fact, the striking of that language in his
10 report and similarly striking his testimony, doesn't really
11 solve the confusion here because there are prior statements
12 that suggest he did an analysis. He doesn't back off the fact
13 that he did an analysis that included both revenues and play
14 time.

15 So we do think a very short deposition is appropriate.
16 It's a Zoom era. We think we can minimally burden Dr. Cragg.
17 And, as you say, we certainly don't need more than half an
18 hour, and we hope to conclude it much sooner.

19 **THE COURT:** All righty. Okay. And that's what I'm
20 going to do.

21 Now, with respect to the other issue about communications,
22 and I gather it's just two -- let me ask Epic. You identified
23 there were only two of your expert witnesses, Evans and Athey,
24 who had anything even potentially responsive. Is that still
25 the case?

1 **MS. MOSKOWITZ:** Yes, Your Honor.

2 **THE COURT:** Can you describe for me, to the extent you
3 know, how many responsive materials are we talking about?
4 That's what I couldn't get a sense of from your brief.

5 **MS. MOSKOWITZ:** Your Honor, frankly, I'm not sure I
6 even know the answer because the language as written is
7 extremely broad. I mean, it could cover any communications.
8 Some of these experts sit on boards. Any communications, any
9 discussions. Of course, they're experts in this field.

10 So, you know, I frankly don't even know how broad it is.
11 I am aware that there is a nonzero set, but I don't know the
12 full range because the language is a bit broad and
13 all-encompassing. So I do think that that may depend,
14 depending on how narrowly we read the request itself.

15 **THE COURT:** I see.

16 Well, it's true that the request does contain the word
17 "communications." And that could be anything. It could be
18 emails or something. But I think the gist of it is
19 something -- I'm looking because I've got it on my other
20 monitor over here. Reports, lectures, speeches, talks.

21 What if I struck the word "communications," because of its
22 potentially all-encompassing range, and just left it at
23 presentations, reports, lectures, speeches or talks, would you
24 be able to ballpark that? Those are more formalized documents.

25 **MS. MOSKOWITZ:** Your Honor, I don't know -- I still

1 don't know the answer in terms of volume. We, frankly, don't
2 have a right to know some of these things either. Generally,
3 the practice you follow is you just don't cover confidential
4 issues.

5 We are producing the public -- things that were made
6 public, publicly or made public. And the confidential
7 materials, these experts have a number of confidential
8 engagements. And the general practice is that testifiers do do
9 that, but that you disclose the public stuff and not the
10 confidential, including even the identity of the clients and
11 the nature of the engagement.

12 And the request itself is really speaking about actions
13 taken by these individuals in their capacity as a confidential
14 consultant, presenting or speaking on behalf of a client not
15 involved in this case to potentially sensitive bodies in
16 confidential context.

17 So I don't know the scope of what these experts have done,
18 and I -- and they won't tell me either because of just the
19 confidentiality obligations that they have to their other
20 clients. So we thought it was appropriate, given the balancing
21 here, to produce the public stuff.

22 This is, I guess, impeachment that they looking for.
23 These depositions have already happened. These subpoenas were
24 served quite late. And so just in the let's get to trial,
25 which is three weeks from Monday, we thought that we would give

1 them the public stuff. They already have all the materials
2 relied upon, right, which is the baseline.

3 And so we just -- I -- I'm not being totally responsive to
4 Your Honor's question, which I realize now as I've been
5 continuing to talk. So I think the short answer is I don't
6 know how much we're talking about other than I think that there
7 is concern that I can't even get that information from them
8 given that it would be a disclosure of their confidentiality
9 obligations.

10 **THE COURT:** I see.

11 Well, when you draw the line at public versus
12 confidential, it makes me wonder. In litigation, expert
13 reports are almost always designated confidential. So if
14 you're excluding everything that's confidential, that would be
15 prior expert reports in litigation. But that's precisely the
16 thing Apple would want to impeach them with, so that's kind of
17 hard.

18 I totally understand if the engagement, itself, is
19 confidential, then they can redact clients' names. That's
20 fine. Apple agreed to that as well.

21 But the expert work just normally isn't public. So that's
22 the concern that I have with that.

23 **MS. MOSKOWITZ:** And we didn't get that from them, Your
24 Honor, either. I think the practice is that when you -- you
25 list your prior testimonies in the last four years, right.

1 That's the standard disclosure, and we did that, and we got
2 that from them.

3 And to the extent that that's all that they were asking
4 for, actual written expert reports, that's not what they're
5 asking for here. They're actually talking about completely
6 separate things, where there wasn't an expert report submitted
7 in the litigation but, rather, a presentation or a discussion
8 with a regulator in a completely different context.

9 So this request doesn't even talk about documents created
10 or reports created in the context of a litigation.

11 **THE COURT:** All right. The protective order has a
12 provision in its Section 10 that where a party has to produce
13 documents that have a nonparty's confidential information, that
14 there's a procedure that they give notice to the nonparty, and
15 then the nonparty has 14 days to move for a protective order or
16 not. And if they don't, then the party has to produce it.

17 A tentative thought I have is just to make the experts
18 follow that procedure, and then the burden is on the nonparties
19 to move, if they want to.

20 Why wouldn't that be an appropriate way to proceed?

21 **MS. MOSKOWITZ:** Your Honor, even the identity of these
22 clients is confidential. The fact that X company used this
23 expert in a consulting capacity to provide confidential
24 information to a regulator, all of the aspects of that is
25 confidential.

1 So to disclose the parties who have retained these experts
2 and force them to come speak to why their materials that they
3 thought were going to remain confidential are going to be
4 produced to Apple in this context, in and of itself would be a
5 disclosure beyond what I think they have an expectation of
6 privacy as to.

7 And the protective order certainly does contemplate that
8 Epic might have confidential information of third parties, and
9 we've been doing that very thing to give notice to third
10 parties.

11 But treating the expert as a third party and then their
12 clients as even yet another step removed of third parties, the
13 burden of giving the notice, the burden on the clients, the
14 chilling effect that this would have on all testifying experts,
15 that every confidential engagement that they have is going to
16 be subject to scrutiny, it really seems like a Hobson's choice
17 for all experts going forward to be able to be a testifier when
18 they're not going to be able to protect their clients'
19 confidentiality obligations and they're including the very name
20 of their clients and the context in which they've been engaged,
21 just to get some extra impeachment material where they do have
22 everything that's public, they have the writings, they have
23 prior trial testimony, they have a lot of that material.

24 The burden and the balancing here really seems to weigh
25 against forcing testifying experts to even give that notice and

1 force those clients to come forward and disclose themselves and
2 the regulators that they were involved in. I mean, this is
3 very sensitive material for all of these individuals and their
4 clients.

5 So I don't think that would solve the issue, and I think
6 it would create part of the very issue that we're trying to
7 protect.

8 **THE COURT:** One thing I'm struggling with is
9 proportionality. And if it's just five presentations that they
10 have to disclose, because that's all that's responsive, then I
11 think that's easy and doable. But if it's 200, then it's
12 ridiculous. And I'm feeling frustrated because you're not
13 telling me which of those is the case.

14 **MS. MOSKOWITZ:** Your Honor, I apologize that I don't
15 know. But even for the five, even if it were just five, I
16 still think that it's -- the burden is not just on gathering
17 the materials, it's the disclosure. It's the fact that the
18 identity of their clients -- redacting just the names isn't
19 going to be enough because the very substance and material in
20 there could very well provide the information about what this
21 consultant was hired for, who they were speaking to, and on
22 whose behalf and about what, all of which was expected to be
23 confidential and not to be disclosed to anyone, including
24 anyone who ever retains that expert ever again. It's just not
25 to be disclosed. It's not shared. And that is the general

1 practice in this industry.

2 And Apple itself is specifically looking for information
3 that touches upon their business. If these consultant experts
4 were speaking about Apple to regulators on behalf of other
5 clients, that is extremely sensitive information that has
6 nothing to do with their capacity to speak on the issues that
7 they are relying upon in this case. And it seems inappropriate
8 for Apple to be using this mechanism to fish for that
9 information. So we're very concerned about the substance as
10 well.

11 **THE COURT:** Why would discussion with regulators be
12 confidential? Shouldn't that be public?

13 **MS. MOSKOWITZ:** Not -- they are -- they are treated as
14 confidential in many instances. When companies are asked to
15 and do speak to regulators, it is often on an anonymous basis
16 and not disclosed publicly, let alone to other companies.

17 **THE COURT:** Well, but I would think that if they're
18 telling antitrust regulators one thing and then saying a
19 different thing in this lawsuit, then that could be important
20 impeachment evidence. Wouldn't it be?

21 **MS. MOSKOWITZ:** Your Honor, in a confidential context
22 where this individual is speaking on issues that may be in some
23 ways overlapping, there is a proportionality issue.

24 To get the impeachment would require disclosing
25 confidential investigations and confidential information

1 provided in the context of those investigations when retained
2 by confidential parties being called to speak to regulators in
3 those context. That is a very disproportionate outcome for
4 those materials.

5 The experts here have been retained in confidential
6 context like that. And they have their own prior -- they have
7 other publicly available -- we're giving them everything that
8 they have publicly in response to this. They have all the
9 materials relied upon. They have laundry lists of prior
10 writings by these experts. They have plenty of places to go
11 for true impeachment.

12 True impeachment does not need to be every single thing
13 this person has ever said on behalf of a client. And that's
14 where the proportionality comes in, I think, Your Honor.

15 **THE COURT:** All right. Let me hear from Apple.

16 **MR. SRINIVASAN:** Sure, Your Honor. I don't understand
17 what Ms. Moskowitz means by "true impeachment." What we have
18 asked for is materials on relevant issues in this lawsuit that
19 specific experts have opined on.

20 As you suggested, Your Honor, presentations made to a
21 regulator in particular are highly probative of what that
22 expert's views are on things or what they've expressed before,
23 to see if they're saying something different to regulators than
24 what they're saying on behalf of Epic currently.

25 You know, as far as this disclosing confidential

1 information broadly, as we mentioned, we're not asking for the
2 confidential information of regulators. We're not asking about
3 their investigations. We're asking about what the expert
4 presented and simply, in the case of Dr. Evans or Dr. Athey,
5 what their opinions were on these issues.

6 I'm a little surprised -- or I shouldn't say I'm
7 surprised. I mean, the issue of confidentiality, Epic throwing
8 itself at the mercy of the Court on that basis, rings a little
9 hollow for me.

10 We've had Valve come in here and say, "Hey, our material's
11 confidential," and you've said you have a protective order,
12 which is absolutely right.

13 We've had Samsung come in and say, "We shouldn't have to
14 give our confidentiality information up," and you said there's
15 a protective order.

16 Epic is a litigant. And this is really an Epic issue;
17 right? This is not the doctors coming in, filing their own
18 motion. Epic filed this motion. I mean, these are
19 Epic-related issues. Epic should be subject to the same
20 protective order it's insisting third parties should be.

21 The confidentiality issue, I still don't fully understand
22 it. We've said we can keep the nature of the party private,
23 and so there is no issue there. But, fundamentally, this
24 information is absolutely important to us.

25 Dr. Athey, in particular, you can go on the website, on

1 the Internet, and she is very closely aligned with Microsoft.
2 She's on their website. You can find her bio on their website.
3 It's important for us to know what she said in other industry
4 context because these other industry players aren't neutral in
5 this battle. And we should know what she said. And even if we
6 don't know who the identity of the client is, we understand
7 that she's opined and Dr. Evans has opined on related issues.

8 On the issue of burden, Your Honor, as Ms. Moskowitz said,
9 they have never made a burden argument in the sense of volume.
10 They've said, we'll give you everything public.

11 Now, as you say, if the private materials are what's more
12 voluminous, we could have had that discussion with them if they
13 would have come to us and said, we have 200 of these. We would
14 have -- we would have said five us -- we would have
15 prioritized. We would have worked for them.

16 If there are only five, we want them all. If there's only
17 ten, we want them all. If there's 200, we'll work with them.
18 We understand what the practical constraints are. We're
19 particularly interested in the regulator presentations.

20 And, finally, on communications, I appreciate Your Honor's
21 effort to broker something, you know, in the middle here. I
22 will remind Your Honor that when it came to Analysis Group we
23 had another ruling by Your Honor early in this case where you
24 said, "You have to give the communications of Analysis Group
25 outside of their retention," and it was related to a prior

1 retention that had nothing to do with this lawsuit.

2 And so we do believe communications are relevant. And,
3 again, if it's a volume issue, we can have that discussion.
4 But they have not indicated that that's the issue and have
5 simply relied on this confidentiality concern which, frankly,
6 isn't persuasive at all given all of the other third parties,
7 given the nature of the protective order that we have here.
8 The material will be protected. It will be subject to the same
9 protections that we've insisted that other parties be subject
10 to, including Epic.

11 **THE COURT:** One issue, there are seven subjects in
12 Apple's third RFP. And the sixth is mobile payment or payment
13 processing systems, and the seventh is middleware.

14 Those seem like -- although I understand their relevance
15 to this case, those seem like they could hit on a lot of things
16 that may have no -- like middleware, that's just a very vague
17 and broad topic.

18 And, you know, payment processing systems, if they did
19 anything regarding Square or, you know, credit card payments,
20 those seem like those could reach a lot of reports that might
21 not be particularly relevant in this case.

22 Does Apple have any strong objection if I strike those two
23 topics?

24 **MR. SRINIVASAN:** Well, Your Honor, I know it doesn't
25 seem evident from the pleadings, but middleware is probably the

1 word you'd see the most in Dr. Athey's report. It is basically
2 a focus of her analysis of middleware, and that's the reason
3 that's in there. And she talks about how that's the way we
4 should be looking at things not the way that Apple has defined
5 the market.

6 And, of course, mobile payment and processing is what they
7 claim is a tying -- is the tied product market here. And,
8 unfortunately, those are -- it's hard for me to sit here and
9 say you can strike those, because those are key issues.

10 We would much prefer to, you know, understand from Epic
11 what they have, you know, in terms of the volume here because,
12 again, if it's -- if it's not a lot we can -- we would want
13 them all. And if it's a lot, then we would prefer to organize
14 it slightly differently in terms of is it a presentation to a
15 regulator? Is it a presentation to a business group or
16 industry organization?

17 We would rather break it along those lines rather than
18 excise substantive issues, because these are all very relevant
19 issues to Dr. Athey's opinion in particular, for instance, in
20 the two that you mentioned.

21 **THE COURT:** I see. Okay.

22 Well, here's what I'm leaning toward -- and I'm interested
23 in Epic's thoughts -- is ordering the experts to give notice
24 under the protective order. Then the nonparties have 14 days
25 to either propose redactions or move for protective order.

1 But I'm thinking I'm just going to say in my order that
2 you provided me with no information about how many responsive
3 materials there are. And I'm not intending to order the
4 experts to produce 200 presentations. I'm not intending that
5 at all.

6 And if you talk with the experts and the volume seems
7 high, then you should ask for leave to file a motion for
8 reconsideration, because I am concerned about the potential
9 proportionality problem here. If it's just a handful of
10 things, then it doesn't seem like it's a problem.

11 But I'm really not intending people to do a large amount
12 of work on the eve of trial because I understand you have more
13 important things to do. It's just, based on the information
14 given to me, I'm really not able to evaluate whether this is a
15 big ask or a small ask. If it's a couple of hours of work,
16 then it seems worth doing. But I don't mean to be burdening
17 the experts with a lot of work.

18 So maybe you'll come back to me on Monday and say, yeah,
19 we talked with them over the weekend, and it's a huge pile of
20 stuff, and then I'll say, well, then, it's just not worth
21 doing. But if it's only a few things, then I think they should
22 do it.

23 So I don't know. Ms. Moskowitz, your reactions?

24 **MS. MOSKOWITZ:** A couple of reactions, Your Honor.
25 Thank you.

1 One is, it sounded like Apple's counsel was unwilling to
2 limit the subject matter, but that there could be -- some of
3 the even categories of where the experts need to look, any
4 company that was presented to or communicated with, right, I
5 heard Your Honor, but Apple's trying to keep that in the mix.
6 Basically, any document where there's a communication with a
7 company about any of these topics does seem broad.

8 So to the extent the real concern here is communications
9 or presentations to regulators on behalf of these clients, we
10 do still think that there are confidentiality concerns. But
11 that would limit the scope of even what the expert has to do to
12 try to figure out what's out there rather than any
13 communication with any business in any real capacity.

14 So that is one way that we can narrow it. The other
15 issue, I think, Your Honor, especially on that category, is one
16 set of protections that we would really ask the Court to
17 provide, which is not contemplated by the protective order
18 currently, is that there be outside attorneys' eyes only.

19 We are very concerned about Apple having this information
20 more generally. And so given the subject matters that are
21 being asked about here, that they be given only to outside
22 counsel on outside counsel's eyes only and not any of the Apple
23 employees or in-house counsel.

24 Again, this is potentially competitively sensitive
25 information, even the fact of these communications or

1 presentations in a confidential regulatory context. So
2 that's -- that's one concern.

3 The -- well, I'll stop there. So that would be one of the
4 requests we would make on top of potentially limiting this to
5 regulatory context.

6 **THE COURT:** I feel like you're speaking hypothetically
7 about things that might or might not exist, and I'm not sure
8 that you even know if they exist.

9 **MS. MOSKOWITZ:** I do believe that this category is not
10 a null set and that the concern is real about the
11 confidentiality with respect to Apple.

12 **THE COURT:** Mr. Srinivasan, your thoughts.

13 **MR. SRINIVASAN:** Yeah. So this is part of the problem
14 is because we do feel there's a bit of the hide the ball here.

15 But what we would -- you know, a possible solution would
16 be for them to tell us what that list is. If there's a burden
17 issue and they give us a list of 200, and they say, well, we
18 have these 200 things that would be covered by this, then we'd,
19 therefore, have all those implicated third parties that we have
20 to provide notice for, well, if they provided us that list
21 initially, we can say, well, look, okay, don't worry about, you
22 know, 80 percent of these, or focus just on these, and there's
23 only five or ten, or whatever it is.

24 We could have had that discussion. We still can. That
25 would limit the burden on them and what they need to do. And

1 we're certainly willing to be reasonable. We don't want to be
2 buried with 200 reports either. And if they disclose to us
3 what the nature of this is, we can limit it for them.

4 **THE COURT:** All right. Anything further from Epic?

5 **MS. MOSKOWITZ:** You know, Your Honor, I just -- the
6 very fact that these experts are going to have to look for
7 everything they ever said to any company in, really, any
8 context that touch upon any of these issues, including for the
9 very reason Mr. Srinivasan said he won't cut out middleware,
10 Professor Athey's expertise is in this topic, to the extent
11 she's having any communications with any company, including the
12 one she sits on the board of or otherwise, to even look for
13 that is burdensome.

14 And so that's -- that's part of the issue is to the extent
15 we can limit it to what they are really trying to get at. And
16 I don't think it really is that -- it would be helpful to lower
17 the burden on the experts to even do this exercise more
18 broadly.

19 **THE COURT:** Well, I'm thinking I'm going to strike the
20 word "communications" and just leave it with the more
21 formalized presentations, reports, lectures, speeches, or talks
22 so that they're not looking for, you know, every email or every
23 voicemail they've sent to somebody but something more formal,
24 something that would look like an expert opinion rather than
25 just everything they've said on this subject.

1 But, again, I'm just going to put in my order that if this
2 is a huge burden, I'm not intending to do that. And so you can
3 come back and ask for leave to file a motion for
4 reconsideration if after talking with the experts you've
5 concluded that this is a big burden. Because if it's just a
6 little bit of stuff, then I think it's worth doing. And if
7 it's hundreds of things, I don't think it's worth doing.

8 So anyway, I will -- that's where I'm headed. I'll try to
9 get an order out later today, but as I keep -- I'm now just
10 repeating myself. If it's just a few things, I don't think
11 it's a problem. But you are --

12 **MR. SRINIVASAN:** Your Honor --

13 **THE COURT:** I don't want you to do a lot of work on
14 this.

15 Go ahead.

16 **MR. SRINIVASAN:** Your Honor, and just quickly on that,
17 and this is the frustration we have, if there are a lot of
18 things, just like there typically would be when there's a --
19 somebody comes to you and says this is a very burdensome
20 request, I think there should be, still, a step where they come
21 to us and say, "This is burdensome, would you narrow it?"

22 I'm concerned that they're going to come back to you on
23 Monday and say, "There's hundreds of these things, what can we
24 do?" and then we're somehow out of luck because there's too
25 much impeachment material.

1 We should certainly at least then have the right to say,
2 okay, we don't want all hundreds of whatever you have, we'll
3 just take this. And that could just be five to ten
4 presentations, for instance, to regulators.

5 We're in a box here because they won't tell us. If they
6 told us that there's five to ten presentations to regulators
7 and a bunch of other stuff to industry, or whatever it is, we
8 would work with them.

9 We have a practical limit. They have a practical limit.
10 We have trial. It's still important for us to get at least the
11 cream of the crop. It shouldn't be all or nothing, is, I
12 suppose, all I'm saying. But, you know, it's not our fault
13 that we're in this position. It's there's because they won't
14 tell us. That's all.

15 I understand Your Honor's order. I agree with it and
16 where you're heading. I just wanted to say that I feel like we
17 should have that option to at least have some piece of it, if
18 it ends up being too much.

19 **THE COURT:** Okay. That's fair enough. I think that
20 if they -- if there is a lot of stuff, then Epic should
21 describe for you what it is, and at least by categories, so
22 that you can have a meaningful meet and confer and then narrow
23 it and say, okay, these are the things we want and ignore all
24 the rest. That's certainly fair.

25 So I think if Epic does come back to me on Monday with a

1 motion like that, I do think that simultaneously they should
2 tell Apple, you know, here's what the universe is, we've got
3 some few things to regulators, we've got the rest went to
4 private clients. And then the parties should meet and confer
5 and then, hopefully, you can just resolve it.

6 So I do think that that's appropriate to have that kind of
7 communication. Unfortunately, the way this has been presented
8 is a blank box, and that's not helpful toward resolving the
9 discovery dispute.

10 All righty. I think I have what I need to get out an
11 order. Thank you for at least -- well, you're on the East
12 Coast, Ms. Moskowitz, so this 8:00 a.m. start time wasn't a
13 problem for you. Thank you, Mr. Srinivasan, for jumping on at
14 8:00 a.m. West Cost time.

15 So the matter will stand submitted. Thank you, counsel.

16 **MS. MOSKOWITZ:** Thank you.

17 **MR. SRINIVASAN:** Thank you for accommodating us.

18 (At 8:31 a.m. the proceedings were adjourned.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Friday, April 9, 2021



Katherine Powell Sullivan, CSR #5812, RMR, CRR
U.S. Court Reporter